

Faculty Assembly Minutes
2700 Posvar Hall
December 6, 2016

Topic/Discussion	Action
<p><u>Call to Order</u> The meeting was called to order by President Frank Wilson.</p>	The meeting commenced at 3:00 pm.
<p><u>Approval of the Minutes</u> President Wilson asked for approval of the minutes of the Faculty Assembly meeting of November 8, 2016.</p>	
<p><u>Introduction of Items of New Business</u> No new business was reported.</p>	None.
<p><u>Report of Senate President, Frank Wilson</u></p> <p>President Wilson gave a brief report and noted that Vice-Provost Laurie Kirsch will go next in the agenda (order changed). Some discussion on the new policy will be needed, but we need to take a vote today on this proposal.</p> <p>He noted that committees have been hard at work and coming with recommendations and resolutions after the New Year. The Research Committee will be back with additional significant policy changes that have been a long time in the making. Serious discussion will be needed. The special committees of the Senate have all met at least once and will be scheduling more meetings after winter break. The Adhoc committee on NTS faculty is finishing up, focusing on part-time faculty, and will be at Faculty Assembly with a final report in January or February at the latest. The Fossil Fuel Divestment Committee met and this is a controversial issue. Students and the Board of Trustees are involved in this meeting. It is a very complicated issue. A report should be coming shortly after the first of the year. The Core Values Committee will be meeting to continue their work in the Spring semester. It is a challenging task. President Wilson stated that there is a hopeful future and warned us to take notice that some of the extreme groups have emerged as a result of the election, and that we should not ignore this. The National Policy Institute group (Richard Spencer et al) is on a campus tour, with the first stop at Texas A&M University tonight. This University referred to their core values, and acknowledged that this event will take place, and that they as a University must deal with the spectrum of ideas, and that these ideas were the opposite of the core values of that University. They have scheduled other kinds of diversity events to compete with this event. We should expect some of this on our campus. We must have a coherent response to clarify and embrace we accept as our core values and beliefs. Turning Point USA is led by Charlie Kirk, and is promoting the Professor Watch List, and they are actively trying to expand this. Pitt has a chapter of this organization; no list of Pitt professors exists in this report currently.</p> <p>President Wilson welcomed Jeff Guterman, from Pitt Bradford, which along with the other regional campuses, live in a different world than Oakland and Allegheny County. The campuses are the most diverse places in the counties where they exist. Student tension exists. Bradford Faculty Senate passed a motion last week, based on a similar statement from Alfred University and Bradford student forums on-campus, that represented a statement of diversity. Students at the meetings said they felt very safe on campus, but did not feel safe in the community. The statement was read verbatim</p>	No discussion occurred.

aloud to Faculty Assembly. This statement was discussed at Bradford Faculty Assembly, and it was passed unanimously. He sent this to his students and faculty, and he received varied responses. He feels this is very important message for all to see, including families of students. Dr. Nancy McCabe, Senate President, developed this statement.

President Wilson noted that while we grapple with our University core values statement, it is important for these discussions to occur within the schools and units of the University. Professor Guterman also noted that the Bradford student population has become quite diverse within the last few years. The numbers for incoming freshman is 150-160 students of color out of over 400 incoming students, which used to be a fraction of this. The Community around us is not diverse, so we have to work on this.

President Wilson continued with his report and updated that *Academic Analytics* is a continued discussion item on-campus. It is a way to evaluate your performance as a faculty member, and meetings today occurred about this on-campus. More will come on this about metrics, and this is the focus of the Plenary this upcoming Spring. We all need to ask questions about this, including how much have we paid for this and how much longer does the contract go? Basic questions need to be asked about this.

Reports by and Announcements of the Special and Standing Committees of the Senate

Research Committee

Professors Penny Morel and Pat Smolinski, Co-Chairs

Professor Morel presented this policy This is the second year of the new Senate Research Committee. We meet monthly and receive information from the Vice-Provost for Research and Vice-Provost for Research Conduct and Compliance. This is first of several policies being presented from the new Research Committee.

This is a new policy today on research integrity. In April 2016 the Research Conduct and Compliance Office (RCCO) established an *ad hoc* committee to review the University's research integrity policy (Policy 11-01-01, adopted October 15, 2008). The review committee was convened and chaired by George A. Huber (Vice Provost Research Conduct and Compliance), and included Jerome L. Rosenberg (former Research Integrity Officer), and Craig S. Wilcox (current Research Integrity Officer). The outcome of the review was an updated policy that incorporates several improvements and better aligns University policy with current practice and relevant federal regulations.

The main changes from the previous policy are: (distributed earlier, not read aloud)

- Allows the respondent (person alleged to have committed the misconduct) to object to the choice of the deciding official and appeal to the Provost.
- Now addresses cases where the Dean (normally the deciding official) is the source of the allegation.
- Allows any party to the proceedings to appeal the choice of the deciding official (Dean) and specifies that a different deciding official may be chosen by the Provost as needed to provide for a fair and competent inquiry.
- Requires that the testimony at the Inquiry stage be recorded and a transcript be provided to the witness.

Discussion noted below.
The policy passed unanimously.

- Requires that a respondent who is prepared to admit to an allegation be informed of their rights under the policy.
- Explicitly states that anonymous allegations may be brought forward and they will be acted upon provided that sufficient detail is provided.
- Strengthens the requirement that an audio recording record of the Investigative Board hearing be sent to the respondent.
- Provides a simplified method for handling a case where the allegation is “not made in good faith”. The approach is modeled on methods commonly used at peer institutions.

The proposed policy was presented to the Research Committee for review at their November meeting. The committee requested some minor modifications and clarifications that were incorporated into a revised policy. The revised policy was voted on and unanimously approved by the Research Committee on December 2, 2016. The Research Committee will be reviewing new policies on Conflict of Interest and Intellectual Property in the coming months, and has already provided some feedback on these policies. The Committee will also be examining the issue of community based research and how that is perceived and valued by the University. I will answer any questions anyone might have.

Discussion:

Wilson: Before we open up discussion, President Wilson stated that we received an email from Faculty Assembly member James Jacob (could not be at meeting) from the Interim Dean of Education: “1) I agree it is important to address the case where the Dean is the source of allegation; 2) I do not agree that anyone should be able to appeal the choice of the deciding official. This will pose an undue burden on the Provost’s office which is already completely swamped. Schools have Deans for a reason, to be the person who handles myriad kinds of complaints. This is one reason why it is so critical for schools to have a good Dean and Pitt has a decent grievance procedure for faculty when they really believe a Dean is abusing their power or wronging faculty.

Morel: This was a change that was brought up at Research Committee to address when a faculty is a member is part of an Institute, ex. LRDC, UPCI. Most of the activities of those Institutes are supervised by a Director of the Institute, not necessarily a Dean. These are faculty from different schools in the Institutes. This is the justification for providing that opportunity. It may not be used frequently but was important to add.

Spring: There are two specific things: The Dean may be involved in the allegation. More specifically, when the faculty works 90% in a Center under a Director, and 10% for a Dean in a school. Right now, it does not matter in the current policy --it is the Dean’s prerogative. The option now is that there could be a dual-chairmanship – the Center Director.

Wilson: Any other comments? (none) All in favor? Unanimous. Opposed? None. Abstention? None. This passed unanimously.

Unfinished Business and/or New Business

Policy on Consensual Sexual, Romantic, and Intimate Relationships with Students and Between Employees

Vice-Provost, Laurie Kirsch

Discussion noted below.

Vice-Provost Kirsch presented this policy, which has come from the Provost's Committee, and the Senate has been engaged in this all along. We have been asked to vote on this today. The October meeting of Faculty Assembly had the policy draft reviewed and debated, along with Council of Deans and the senior leadership of the University. Vice-Provost Kirsch noted that she much appreciated the feedback from Faculty Assembly as well as many other faculty on the policy language. The policy was substantially revised, and these changes were highlighted: a) simplified and clarified language to make the policy more concise; removed redundancies; deleted language where situation was covered by sexual misconduct policy/procedure; removed ambiguous language; made the policy less punitive; and added text about scope and purpose of policy at the beginning of the policy. She noted that there are strong feelings about this policy, and this has been evident every time this policy is reviewed. Vice-Provost Kirsch noted that we may disagree on some of the language, but as a community, we have a shared belief that the success of the University's mission depends on trusting and respectful relationships between employees, and especially between faculty and students. Faculty occupy positions of authority and power, and can significantly impact a student's life. We share a commitment to student growth and success. There are faculty and leaders who strongly believe there should be a complete ban on student-faculty relationships. The language in the revised policy reflects our processes of shared governance, which we value, and is a compromise. The revised policy is true to core principles that we share: trusting and respectful relationships between members of the Pitt community are fundamental to who we are as a University. The well-being of our student population is a primary concern and of utmost importance to us as a community. The policy is much stronger due to the October debates we have had and the input received so far is appreciated.

Discussion:

Bonneau: The Committee was commended on taking Faculty Assembly feedback. This policy is much improved, clear and streamlined. It is almost right. The one remaining sticking point is paragraph 3 of part A, dealing with consensual relationships that harm the academic atmosphere, undermine professionalism – all these things that are also prohibited. These are dealing with relationships that are outside of supervisory authority. I agree that we need to protect our students and faculty who are in position where abuses can occur, but I cannot vote for this policy as it is with that 3rd paragraph in there because it seems to ban relationships outside of any supervision/contact based some kind of vague standard of academic atmosphere, undermined professionalism, and to me this is ripe for subjectivity and administrative abuse. I propose to strike that paragraph.

Kirsch: Comments are appreciated. That particular paragraph reflects a community standard to protect our students. The power imbalance is inherent in the faculty-student relationships, because faculty are in a position of authority over students. The intent there is to protect the well-being of the students. I understand what you are saying but that is what the paragraph is trying to get at.

Bircher: Thanks to Laurie for work on this. To echo Chris's comments, I don't think anyone here has any issue with the need to protect the students. What is central in this particular paragraph is to preserve the rights of the accused. At best, under the language here, it does not require one shred of material evidence for whoever the

The policy revisions did not pass.

Faculty Assembly vote:

12 in-favor
19 against
2 abstentions

action party is, to sanction a faculty member. So we have a very stark contrast in the agenda today -- we have a very well-developed Research Integrity Policy which spells out in great detail and appropriately, procedural guidelines which balance the rights of the accused and the rights of the accuser. We have this policy here which essentially imposes no requirements with respect to either the nature of the accusation, the evidence supporting it, or proceeding from accusation, skipping the judge-and-jury part and just to execution of whatever the sanction is. That is the underlying concern. No one is debating protecting the students. The policy as stated is too vague to protect against administrative abuse.

Kirsch: That is not a characterization of this policy. I would not state it quite in those terms. I think the paragraph reflects a desire to protect the students. As a large University, we deal with workplace conflicts and issues all the time, on a regular basis, as in other situations, it is hard in a policy to specify every potential action and response. There are mechanisms in place that faculty and staff have access to for dealing with grievances or concerns about particular actions that may or not be taken, and those would apply in this situation as well.

Bircher: Well, I would take slight issue with that. One of the bases for a faculty grievance is misapplication of the policy. If you have a policy which is sufficiently expansive, that it allows the mere perception of disruption or harm to the academic environment to be the basis for a sanction, whoever imposes that sanction is acting within that policy. They are not misapplying it, they are applying it as clearly stated, and that precludes a faculty grievance on the basis of misapplication of the policy. This policy sets up a problematic situation not only for the faculty, who are defenseless in my opinion, but for the institution, in that inappropriate exercise of this policy is outside of the grievance procedure.

de Vallejo: This is a great improvement, thank you. My issue is also this statement that the University prohibits anyone from initiating or soliciting a consensual relationship. I don't know how in any democracy how we can do this. Nobody in my opinion can actively do this. We can only minimize the adverse outcomes. I think this policy lacks guidance for that. Simple things like education that we are already doing, for example, for sexual harassment. Those sorts of measures would prevent this from happening. Policy violation section is very short. What exactly is the violation, if I am the subject, just because I have a consensual relationship, we are both consenting adults, in the same field, working on the same grant -- am I in violation of the policy? If she is the PI on the grant, are you going to remove me from the grant? That is essentially what you are saying. You are prohibiting people from something so nebulous. The policy should be to state that the emphasis should not be in prohibiting something that as we know is consensual and within our personal and constitutional rights. It should be more about dealing with the harm that happens. It is one thing to say we would like to minimize harm. There is the potential to have administrative abuse in these cases. There are relations now that exist with faculty/employee - supervisor/subordinates. Removing them from their positions is not going to be helpful and will set ourselves up for lawsuits. The principle is good, but the way we are stating this could be different.

Kirsch: A point of clarification -- The policy between employees states that relationship must be disclosed and a management plan developed and implemented to address supervisory authority and assure objective evaluations.

Rohrer: My view is that the intention is to protect the most vulnerable: students, staff and lower power positions. This policy addresses this and is a perfectly appropriately statement. I do agree with the others that this may be misused, but I would hate to see four more months go by before we get approval. Dr. Bircher: In looking at the 3rd paragraph, if we remove the first consensual relationships sentence, and leave in the well-being and safety of students, would that satisfy your concerns?

Bircher: I actually have to reflect on that a little bit longer, but basically no. If we have a policy that allows the construction of the perception of damage to the academic environment, proceed directly to sanction without any due process, I think that is problematic for the faculty. If the basis on which decisions are made disappears all together, that does not alter the potential for bad decision-making, at least in my opinion. I would phrase it differently in that there has to be material evidence of disruption rather than mere ephemeral perception of disruption or harm to the academic environment. In my view, that makes it a little safer for faculty and there has to be adjudication as to whether or not there really is disruption of the academic workplace or whether this is a baseless allegation.

Spring: I respectfully disagree with Nick and Chris on this. I also commend the administration for the revision of the policy and their time and effort on this. I do understand that these terms are ill-defined. Few of us disagree that concern for our students is of paramount important. This policy does not say that consensual relationships may not occur from time-to-time and not be in violation of the academic environment in certain situations. I further observe that the Senate and its committees, when an issue of this nature arises, becomes extremely sensitive to capricious decision-making. We are in a time in which we have observed within our country and at other institutions, capricious behavior related to our clients. Many institutions are taking a stronger look and saying this is not something that is condone. Our institution is not something that is absolutely forbidden, but in the case of students, it is not just a matter of a direct supervisory relationship -- there are other conditions in which we as faculty or staff could be predators. I do appreciate that there is no direct appeals mechanism. There will be case law written around this in the next years and we should be sensitive to that. The comments made suggest to me that there is no bar on how much water there is in the glass. My sense is to think that if there are cases which come up, in which there was significant argument as to whether there was any harm to the academic atmosphere, any undermining of professionalism, any hindrance of the fulfillment of our mission, that this policy is going to be back here with a very strong statement that this is ludicrous. On the other hand, if this is applied in cases in which it is not supervisory, but it is creating harm, it is predatory in nature, that we are glad we have it. Given all that has changed in this policy, my sense is that as far as the Senate is concerned, no policy is absolute and forever. We just demanded a rewriting of the Research Integrity Policy and I think we see that as significantly positively impacting that environment. We took a policy statement which we legitimately claimed mixed a bunch of things and said some things we disagreed with and restated it to focus it and streamline it. I do agree that this third paragraph is going to require some testing. There is going to be a first test that is not supervisory, and we are going to have to make a decision at that point, or TAFC is, or whatever committee the issue arises to, to decide if these three things: harm of the academic atmosphere, undermines professionalism, or hinders the fulfillment of the academic mission of the university, it will be a concerning relationship. We can look at it either way -- giving supervisors too much power, or to say it constitutes a warning that we, and staff, and

graduate students need to think long-and-hard before entering into a consensual relationship. If it is honest, if it is fair, if it does none of these things, it proceeds without criticism. I fully understand this fear we sometimes have of unrestricted power. But I do believe that the history of the Senate at this institution says capricious exercise of unrestricted power does not last for a long time, at least in my School.

Kanthak: As a political scientist, I am always thinking about not just effects of the rules we see, but those we don't see. When I read this, I am confused as to how we continue to have a policy – relationships between faculty and students do not look like they look in the movies – they are complicated. Sometimes at the University of Pittsburgh, we have this fabulous family/spousal benefit program. What do we do with those people who have chosen to become students at the university to take advantage of this excellent program, who are now students? I look at this policy and it could be that someone as a student, taking advantage of this benefit, has a fellow student who had said this harms the atmosphere and undermines professionalism (using the example of when her husband was a student here and if her supervisor did not like her), she could have been in big trouble and in her example, her husband never would have gone to school here. It is really important to think about the due process issue and how it can harm faculty and this could harm a lot of people. Consensual relationships do not always look a certain way, especially with dual-career families in this area. One thing that may come out of this is that this is really going to harm women. Spouses will be harmed. They cannot get the degree they want to have.

Weinberg: The ultimate goal is protect students. Does striking that questionable sentence or adding Dr. Bircher's wording change in anyway diminish this goal? Our goal as this governance body is to come up with the best policy and document. It not okay to throw it out knowing there are some problems, with a test case and potentially have a few lives ruined. If we see problems, we should try to head them off. I ask again, by removing that sentence, would this impact the protection of students? As I read this, it reads like the classic catch 22: here is the policy about removing yourself from a supervisory role, and if you follow this to a T, you can still be punished. I cannot accept this in a university policy.

Bircher: Trying to work out the best policy up front is vastly preferable, to volunteering the university to be a test case or a series of test cases, particularly outside the institution. To set up a policy that is an invitation to litigation would be imprudent from an institutional perspective and imprudent from the faculty perspective.

Wilson: We received at the Senate Office written comments from colleagues who could not be at the meeting – most of these have been discussed today. One additional comment had issue with this 3rd paragraph and said if we really are serious about protecting the students, we should have a complete ban on consensual relationships. This has been on the table before in earlier stages of the policy.

Tananis: I would like to understand if other institution's policies of a similar nature were considered when drafting this paragraph, and were other policies similarly complex and confounding?

Kirsch: As a Committee, we benchmarked with other universities and there was a wide range of policies. Ours is concise compared to them.

Urban: When this came up in a different forum, there was a discussion of this, and there was a list of universities that had a complete ban on faculty-undergraduate relations, such as Stanford and other ivy league schools.

Tanani: I am most focused on the 3rd paragraph, which is the sticking point. We are talking about protecting students in these power relationships that do not reach the limit of supervision and evaluation. There is a potential power differential that can act out in many ways. How best to word this is what I am trying to get at. If other universities are having the same problem trying to come up with wording that is acceptable broadly, then we become one of many doing that. We might encourage the university to work with others to come up with a similar policy statement. I just want to be sure other policies were considered specifically around this third paragraph and were there any other universities that had better language we could have used.

Kirsch: We did look at a lot of policies as we drafted the whole proposal here.

Tanani: A lot goes away if we say, as other institutions have, “no you don’t do that, period.” Debates and arguments going on here go away. What I am gathering is that we are saying as an institution and as a faculty that we don’t want to go there. This opens up this space: how do we say what our intent is without being overly restrictive or having a deficit-based approach.

Stoner: I raised this issue in a previous Assembly meeting: Spousal hires/retention of partners – If I can draw attention to the first page, second paragraph (under Scope). There is a kind-of moral disapproval -- is it possible to make a distinction between developing a new consensual relationship when those relationships might exist, versus continuing an existing one? This partly addresses some of Kristin’s concerns, and the total ban on faculty-undergrad relationship would be more problematic when the spouse had never gotten a B.A. or B.S., for example, and decided to use the wonderful benefit to go back to school. This would fundamentally violate the policy. I share the same concerns about paragraph three. I very much appreciate discussion, but I wonder if we have gone too far in terms of the process angle. Even if we add “that are proven to harm,” what kettle of fish does this open? It is hard to know where that stops.

Wilson: It is about 4:00. We need to decide what to do next. Laurie, we should take a vote now.

Assembly member: I move that we pass this as written.

Spring: Second.

Wilson: We have had plenty of discussion. Any doubt on what we are voting on here?

Sukits: My doubt centers on this: Is there a policy like this that is for students? Do students know about this? It is extremely naïve to think that we need to only protect students. We have faculty who have no common sense and get involved in ridiculous relationships. This is all one-way. We may need to protect faculty too. There could be a situation where students could initiate relationships that would put faculty or administrators in great jeopardy.

Kirsch: This focuses on the power differential.

Wilson: At this moment, all in favor to accept this version of the consensual relationship policy? 12 in-favor; 19 opposed; 2 abstained. The policy did not pass. We had a quorum present. Next order of business is the Research Integrity Policy.

Spring: Before Penny begins, the procedure (Nick) on this is that it goes to Senate Council?

Bircher: This is relatively unique legislatively in that it is a request from Administration for approval. So, they can make a similar request of Senate Council, but that would be referred directly from the Administration to Senate Council. This is not coming from Faculty Assembly to Senate Council, it is coming from Administration to Senate Council. They could make a similar request. There are extremely rare precedents for this. It has happened in the past.

Spring: There are student policies on sexual harassment for students. They would not necessarily apply to students. These are power policies.

Connolly: Faculty are protected under Code of Conduct if they are harassed by a student.

Announcements

Continued discussion on the Consensual Relations Policy:
(after Research Integrity Policy approved)

Wilson: If the Administration wanted to, they could implement that other policy without our vote, couldn't they?

Bircher: They have two options: 1) they could ignore the Faculty Assembly vote and implement it; or 2) they could take it to Senate Council, where it has a far greater chance of prevailing, in my opinion, and then use that as the basis for implementing it. Either way.

Weinberg: Is there any chance that Vice-Provost Kirsch could come back with the two clauses revised? She would get a positive vote if she would meet us.

Wilson: If this is a possibility, I know who I will put her in touch with, and I will definitely suggest that.

Jones: Two clauses were identified: 1 strongly identified and 1 weakly identified as the issue. Let's get it fixed and get it implemented.

Spring: I believe we made a mistake and at the end we were at the crux of the problem. There is a group saying that all consensual relations with students are out. There is momentum for that in some quarters of the universe, administratively. The second would be they are strongly discouraged (beyond the supervisory ones). If they brought that back, we would say what are those conditions where they are strongly discouraged, and that is what the policy is trying to do. The shame of it is that we are all in agreement that we should be protecting students and these relationships should be entered into carefully by all parties involved, and my sense is that they tried to accommodate our faculty comments on this and what we could not agree on was the

See additional discussion on the outcome of the Consensual Relations Policy.

<p>wording of those conditions outside of the supervisory situations. We (Faculty Assembly) have not approved every University Policy. My guess is that this will not go to Senate Council and that this will just become a University policy.</p> <p>Weinberg: This vote today will come into play after the first case of faculty feeling wrongly accused.</p> <p>Spring: Whether we approved it or not, it could come into play as academic freedom. My sense is that the Administration bent over backward to accommodate our strong objections to the first version of the policy. It is unfortunate. Few things would have come up under the third paragraph that we will have to deal with. I do think it will become a policy and we will look at the ones that come up.</p> <p>Wilson: Motion to adjourn this meeting? It is time to adjourn.</p>	
<p><u>Adjournment</u></p> <p>The meeting was called to end by President Wilson.</p>	<p>Adjournment at 4:13pm.</p>

Documents from the meeting are available at the University Senate website:
<http://www.univsenate.pitt.edu/faculty-assembly>

Respectfully Submitted,

Susan Skledar, RPh, MPH, FASHP
Senate Secretary
 Professor, School of Pharmacy, Department of Pharmacy and Therapeutics

Members attending:

Bircher, Bonneau, Borovetz, Cassaro, Clark, Cohen, Cole, Dahm, Deitrick, De Vallejo, Dewar, Donihi, Fort, Guterman, Harries, Hartman, Henker, Jones, Kanthak, Kaufman, Kaynar, Kear, Kieslyov, Landrigan, Leers, Lyon, Marra, Molinaro, Morel, Nelson, Olanyk, Rohrer, Skledar, Smolinski, Spring, Stoner, Sukits, Tananis, Triulzi, Wilson, Withers, Yarger

Members not attending:

Adams, Becker, Bilodeau, Danford, Frank, Gaddy, Gleason, Goldberg, Helbig, Irrgang, Labrinidis, McLaughlin, Muenzer, Mulcahy Munro, Schmidhofer, Scott, Swanson, Thorpe, Velankar, Vieira, Weikle-Mills

***Excused attendance:**

Beck, Betru, Bratman, Costantino, Czerwinski, Flynn, Horne, Jacob, Kovacs, Landsittel, Loughlin, Mulvaney, Nardone, Phillippi, Rigotti, Taboas, Van Nostrand

Others attending/guests:

Barlow, Connelly, Fedele, Kirsch, Pittler, Urban

*Notified Senate Office